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| APPLICATION NO.                      | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/756,127                           | 01/13/2004  | Anthony R. Hagale    | AUS920031037US1     | 3141             |
| 46240                                | 7590        | 07/05/2006           | EXAMINER            |                  |
| IBM CORPORATION (WMA)                |             |                      |                     | VY, HUNG T       |
| C/O WILLIAMS, MORGAN & AMERSON, P.C. |             |                      |                     | PAPER NUMBER     |
| 10333 RICHMOND, SUITE 1100           |             |                      |                     | 2163             |
| HOUSTON, TX 77042                    |             |                      |                     |                  |

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/756,127             | HAGALE ET AL.       |  |
|                              | Examiner<br>Hung T. Vy | Art Unit<br>2163    |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 January 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/13/2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: ____.                                    |

### **Summary of claims**

1. Claims 1-20 are pending.

Claims 1-20 are rejected.

### **Information Disclosure Statement**

2. The information disclosure statement (IDS) submitted on 1/13/2004. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### **Claim Rejections - 35 USC § 112**

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 8 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 8 and 14, line 9, "adjust at least one entry stored in the database" is not clearly defined and distinctly pointed out the subject matter which is claimed as the Applicant's invention because it is not clear the system adjusts the same database that user searching or different database.

### **Claim Rejections - 35 USC 101**

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and

requirements of this title.

Claims 1-20 are rejected under 35 U.S.C. 101 because the claims are directed to a non-statutory subject matter, specifically, the claims are not directed towards the final result that is "useful, tangible and concrete".

(See State Street, 149 F.3d at 1373-74 USPQ2d at 1601-02).

According to the New Guidelines of October 26, 2005, which states that "A claim limited to a machine or manufacture, which has a practical application, is statutory. In most cases a claim to a specific machine or manufacture will have a practical application. See Alappat, 33 F.3d at 1544, 31 USPQ2d at 1557)... a specific machine to produce a useful, concrete, and tangible result and State Street, 149 F.3d at 1373-74 USPQ2d at 1601-02).

(Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility  
<http://rs6.net/tn.jsp?t=mdmd7pbab.0.kbg76pbab.p9qiibab.7440&p=http%3A%2F%2Fwww.uspto.gov%2Fweb%2Foffices%2Fpac%2Fdapp%2Fopla%2Fpreognote%2Fguidelines101\_20051026.pdf> )

Examiner requests Applicant to include in Applicant's claimed limitations (in all the claims) the following:

What is the practical application?

What is the result?

What is final result that is concrete, useful and tangible?

Because the "practical application, result, concrete, useful and tangible" limitations are not claimed in Applicant's claims and the claims do not recited any purpose of claimed invention, Examiner believes that the above listed claims are nonstatutory.

### **Claim Rejections - 35 USC § 102**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 6-10, 13-16, and 19-20 are rejected under 35 U. S. C. § 102 (e) as being anticipated by Reisman (U.S. Patent No. 6,954,755).

With respect to claims 1, 8, and 14, Reisman discloses a method, an article comprising one or more machine-readable storage media containing instructions that when executed enable a processor and apparatus, to: a storage unit having stored therein a database (102)(see fig. 1A); and control unit (4) communicatively coupled to the storage unit, the control unit adapted to: receiving a search term (Query (a, 1), (a, 2), etc.) from a user (s10); providing a search result to the user based on comparing at least a portion of the received search term with at least a portion of one or more entries stored in a database (see column 9, line 12-15 and fig. 2), providing a feedback module

to the user to monitor at least one online action of the user in response to providing the search result (see column 6, line 27-35), and receiving, from the feedback module, information associated with the at least one monitored user action to adjust at least one entry stored in the database (See column 7, line 14-17).

With respect to claims 2, 9, and 15, Reisman discloses the act of receiving comprises receiving the information from a processor-based device (4) associated with the user (user 1, user 2, etc.), and wherein the act of providing comprises providing a feedback module to the processor-based device (4) of the user, collecting, using the feedback module, information associated with the at least one monitored user action, and providing, using the feedback module, the collected information over a network (See fig. 1).

With respect to claims 3, 10, and 16, Reisman discloses providing the collected at least one of at selected time intervals and in selected data amounts (see column 9, line 16).

With respect to claims 6, 13 and 19, Reisman discloses at least one of adjusting a meta tag associated with at least one entry stored in the database, removing the at least one entry stored in the database, and adjusting data associated with the at least one entry stored in the database (see column 15, line 15-25).

With respect to claims 7, and 20, it is inherent that Reisman discloses adjusting the at least one entry stored in the database to improve the relevancy of that entry because Reisman discloses this method has a lot improvement over prior art (see column 18, line 63-65).

### **Claim Rejections - 35 U.S.C. § 103**

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 11 and 17 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Reisman (U.S. Patent No. 6,954,755) in view of Marcjan et al. (U.S. Patent No. 6,271,799).

With respect to claims 4, 11, and 17, Reisman discloses all limitations of claimed invention recited in claim 1 except for claim the feedback module comprises providing a copy of the feedback module. However, Marcjan et al. discloses a copy of the feedback module (see paragraph 0056). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify Reisman's system to have a copy of the feedback module in order to create a backup data for processor in case the processor need the feedback result since such arranging a backup data for stated purpose has been well known in the art as evidenced by teaching of Marcjan et al (see paragraph 0056).

7. Claims 5, 12 and 18 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Reisman (U.S. Patent No. 6,954,755) in view of Reisman's background of the invention.

With respect to claims 5, 12 and 18, Reisman discloses the method that wherein providing the result comprises, a position of resulted selected by the user relative to the plurality of results provided, how long the user stay on a webpage associated with the one or more of the plurality of results a user visits in response to being provided the results (see column 12, line 27-35) but Reisman does not disclose the feedback module to monitor at least one of how quickly the user selects a selected result from the plurality of results. However, in the background of Reisman's invention discloses a key performance metric, recall, is the completeness of the set of results returned (see columned 3, line 17-20). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify Resisman's system to monitor the how quickly the user selects a selected result from the plurality of results so the instruction that when executed enable a processor has improvement search results in such systems (see column 3, line 41).

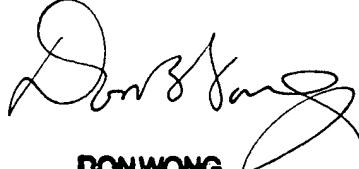
### **Conclusion**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung T. Vy whose telephone number is 571-2721954. The examiner can normally be reached on 8.30am - 5.30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571 272 1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hung T. Vy  
Art Unit 2163  
June 11, 2006.



DON WONG  
SUPERVISORY PATENT EXAMINER